

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TYRON ELEY,

Petitioner,

- against -

ROBERT ERCOLE,

Respondent.

GERSHON, United States District Judge:

On May 6, 2010, the Honorable Viktor V. Pohorelsky, Magistrate Judge, issued a Report and Recommendation (R&R) recommending the denial of this petition for a writ of habeas corpus. The petitioner has now filed objections to the R&R, and the court has therefore reviewed the petition *de novo*. Judge Pohorelsky thoroughly analyzed the law applicable to this petition and correctly applied that law to the facts of this case. I further agree with Judge Pohorelsky that, for the reasons stated, no evidentiary hearing is required. The court adopts the R&R in its entirety. The petition is denied.

Because petitioner has failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability is denied pursuant to 28 U.S.C. § 2253(c).

SO ORDERED.

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s/NG
Nina Gershon, U.S.D.J.

Dated: June 29, 2010
Brooklyn, NY

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 2 - 2010 ★

BROOKLYN OFFICE

ORDER

08-cv-917 (NG)(VVP)